

REMARKS

Claims 4, 16-18, 26 and 27 are pending in the present patent application. Claims 4, 16-18, 26 and 27 stand rejected. This application continues to include claims 4, 16-18, 26 and 27.

Claims 4, 16-18, 26 and 27 were rejected under 35 USC §102(b) as being anticipated by Minami, et al., U.S. Patent No. 6,034,963 (hereinafter, Minami). Applicants respectfully request reconsideration of the rejection of claims 4, 16-18, 26 and 27 in view of the following.

Minami is directed to decoding of network protocols and processing of packet data during packet reception without the time-consuming overhead of software or software/hardware implementations (col. 1, lines 9-11). Minami discloses that a protocol handler parses, interprets and strips header information immediately from the packet, and that the resulting data are passed to the next protocol layer or a data handler consisting of data state machines that decode data formats and react according to the pertinent data (col. 2, lines 35-52). Minami also discloses that any outgoing network packets are created by the data state machines and passed through the network protocol state machine which adds formats to the packet, and checksums the information header information, and forwards the resulting network packet via a physical transport level mechanism (col. 2, lines 57-62).

Applicants believe that Minami does not disclose, teach, or suggest the subject matter of claims 4, 16-18, 26 and 27 for at least the reasons set forth below.

Claim 4 is directed to a method of processing data packets, and recites, in part, extracting only pertinent information from the data packets while ignoring non-pertinent information from the data packets, the pertinent information being pertinent to said selected node; and generating a plurality of response data packets based on the pertinent information, wherein said extracting and generating steps are performed without use of a microprocessor.

Minami does not disclose, teach, or suggest generating a plurality of response data packets based on pertinent information, as recited in claim 4. In rejecting claim 4, the Minami passage at column 2, line 49-52 is relied upon. However, the relied-upon passage does not disclose, teach, or suggest generating a plurality of response data packets based on pertinent information.

Rather, the relied-upon passage merely discloses that each data state machine reacts accordingly to the pertinent data, and any data that are required by more than one data state machine are provided to each state machine concurrently.

Although Minami discloses that each data state machine reacts accordingly to the pertinent data, Minami simply does not disclose, teach, or suggest that this includes generating a plurality of response data packets, much less based on the pertinent information, as recited in claim 4.

Applicants respectfully submit that ‘reacting accordingly to the pertinent data’ does not imply or otherwise disclose, teach, or suggest generating response data packets, or that the reaction results in or otherwise includes the generation of response data packets. Rather, it discloses in a general fashion that the state machines react based on the data, without indicating or implying that the reaction includes the generation of response data packets.

Minami also discloses that any outgoing network packets are created by the data state machines and passed through the network protocol state machine which adds formats to the packet, and checksums the information header information, and forwards the resulting network packet via a physical transport level mechanism (col. 2, lines 57-62).

However, Minami does not disclose, teach, or suggest that the outgoing network packets created by the state machines are response data packets, much less response data packets generated based on pertinent information. Rather, Minami refers to network packets in a general manner, without disclosing, teaching, or suggesting that the network packets are any type of

“response” data packets, and without disclosing, teaching or suggesting that the network packets are generated based on pertinent information, as recited in claim 4.

Claim 4 also recites, in part, transmitting a signal indicating that the response data packets should be sent. Applicants respectfully submit that Minami does not disclose, teach, or suggest transmitting a signal indicating that the response data packets should be sent, as recited in claim 4.

In rejecting the above mentioned subject matter of claim 4, the Minami passage at column 2, lines 57-62 is relied upon.

Although Minami discloses that any outgoing network packets are created by the data state machines and passed through the network protocol state machine which adds formats to the packet, and checksums the information header information, and forwards the resulting network packet via a physical transport level mechanism (col. 2, lines 57-62), Minami does not disclose, teach, or suggest that the outgoing network packets created by the state machines are response data packets.

Rather, Minami refers to network packets in a general manner as being simply any outgoing network packets, without disclosing, teaching, or suggesting the nature of such network packets, much less that the network packets are any type of “response” data packets, as recited in claim 4.

More particularly, Minami does not disclose, teach, or suggest transmitting a signal indicating the packets should be sent, as recited in claim 4. However, the Examiner asserts that it is inherent to send a signal for the Minami function described at column 2, lines 57-62, “otherwise it is inoperable.” Applicants respectfully disagree that it is inherent to send a signal for the Minami function described at column 2, lines 57-62, and that the described Minami function is not inoperable due to a lack of such a signal.

MPEP 2112(IV) provides that to establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (Emphasis added).

The Examiner may not, because of doubt that the invention is patentable, resort to speculation, unfounded assumption or hindsight reconstruction to supply deficiencies in the factual basis for the rejection. *In re Warner*, 154 U.S.P.Q. 173,178 (CCPA 1967).

Applicants respectfully submit that it is not necessarily present in the Minami function that a signal indicating that the response data packets should be sent is transmitted. For example, Minami provides that each data state machine reacts accordingly to the pertinent data (col. 2, lines 49-50). Thus, Minami discloses the state machines react to the data and hence do not require a separate signal in order for the described function to be operable. Hence, the signal of claim 4 is not necessarily present in the function described in the Minami reference, and accordingly, it is not inherent to send a signal for the Minami function described at column 2, lines 57-62. Also, as set forth above, Minami does not disclose, teach, or suggest that the network packets are “response” data packets.

In addition, as set forth in MPEP 2131, “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (Emphasis added). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)(Emphasis added). The elements must be arranged

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as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990) (Emphasis added).

Applicants respectfully submit that since the claim limitation “transmitting a signal indicating that the response data packets should be sent,” is not expressly or inherently described in the Minami reference, since the identical invention is not shown in Minami in as complete detail as is contained in the claim, and since the elements in Minami are not arranged as required by the claim, claim 4 is not anticipated by Minami.

Accordingly, for at least the reasons set forth above, Applicants respectfully submit that Minami does not disclose, teach, or suggest the subject matter of claim 4, and thus respectfully request that the rejection of claim 4 under 35 U.S.C. §102(b) be withdrawn.

Claim 16 is directed to a data packet communication system, and recites, in part, a packet generator connected to said peripheral device and said filter device, said packet generator being configured to generate a plurality of response data packets based on said pertinent information, wherein said packet generator is configured to transmit said response data packets; and wherein said filter device is configured to transmit a signal indicating that said response data packets should be generated.

Claim 16 is believed allowable in its present form for substantially the same reasons as set forth above with respect to claim 4.

Claims 17 and 18 are believed allowable due to their dependence on otherwise allowable base claim 16. In addition, claims 17 and 18 further and patentably define the invention over Minami.

Claim 26 is directed to a data packet communication device, and recites, in part, a packet generator configured to generate a plurality of response data packets based on said pertinent

information, wherein said filter device is configured to transmit a signal indicating that said response data packets should be generated.

Claim 26 is believed allowable in its present form for substantially the same reasons as set forth above with respect to claim 4.

Claim 27 is believed allowable due to its dependence on otherwise allowable base claim 26. In addition, claim 16 further and patentably defines the invention over Minami.

Accordingly, for at least the reasons set forth above, Applicants respectfully submit that Minami does not disclose, teach, or suggest the subject matter of claims 4, 16-18, 26 and 27, and thus respectfully request that the rejection of claims 4, 16-18, 26 and 27 under 35 U.S.C. 102(b) be withdrawn.

For the foregoing reasons, Applicants submit that the cited reference does not disclose, teach, or suggest the subject matter of the pending claims. The pending claims are therefore in condition for allowance, and Applicants respectfully request withdrawal of all rejections and allowance of the claims.

In the event Applicants have overlooked the need for an extension of time, an additional extension of time, payment of fee, or additional payment of fee, Applicants hereby conditionally petition therefor and authorize that any charges be made to Deposit Account No. 20-0095, TAYLOR & AUST, P.C.

Should any question concerning any of the foregoing arise, the Examiner is invited to telephone the undersigned at (317) 894-0801.

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Electronically Filed: August 31, 2007